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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Addendum

TOGO*

[19 April 2001]

* This report is issued unedited, in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

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1. On 7 and 8 July 1994 Togo submitted its second periodic report to the Human Rights Committee under article 40 of the International Covenant on Civil and Political Rights of 16 December 1966.

2. By his letter No. G/SO 221/922 (3) dated 24 November 1994, the United Nations Secretary-General requested the Togolese Government to submit its third periodic report. In compliance with that request, the Togolese Government submits the following report.

PART I

POLITICAL AND INSTITUTIONAL DEVELOPMENTS IN TOGO

THE HUMAN RIGHTS SITUATION

3. Following social and political problems connected with the transition to democracy, Togo has now set its feet in the road to stability and social peace.

4. The first Government of the Fourth Republic, which was formed in May 1994, has from the outset been committed to building a democratic Togo in which all population groups will be reconciled and desire national unity, peace and public order.

5. This commitment was proclaimed in the political programme of the then Prime Minister, the broad aims of which were:

- To institute a policy of national reconciliation;
- To restore national unity;
- To guarantee the security of persons and property;
- To help build a State based on the rule of law and human rights;
- To promote justice, which is the guarantor of individual liberties.

6. Since that time the Government has worked to restore confidence and combat the insecurity created by three years of social and political disorders. Strict instructions to improve security measures have been issued to the security forces (army, gendarmerie, police, fire brigade and customs service). Prosecutors and criminal investigation officers have also been requested to observe criminal procedure scrupulously.

7. In December 1994, in line with its continuing aim of promoting national unity, the National Assembly adopted an Amnesty Act proposed by the Government, pardoning those responsible for the attacks of 25 March 1993 and 5 and 6 January 1994.

8. Considerable efforts are also being made with regard to national reconciliation. A number of measures have been taken in order to implement the policy of national reconciliation and "general forgiveness" advocated by the head of the first Government in his political programme of 24 June 1994.

9. Chief among these measures were training seminars organized in 1995 in Lomé, Kpalimé and Kara on "Democracy and national reconciliation". Three seminars on "Democracy and tolerance" were held in 1996 in Dapaong, Sokodé and Aného. The aim of these awareness-raising seminars was to drive out of Togolese people's hearts the hatred that had divided them and lead them towards a love of dialogue, tolerance and consensus.

10. Again out of a desire for general pacification, Togo signed an agreement with the Office of the United Nations High Commissioner for Refugees (UNHCR) on 12 August 1995. The aim of this agreement is to promote, facilitate and organize the voluntary repatriation of Togolese refugees who were obliged to leave the country as a result of the social and political disorders which occurred during the period of transition to democracy.

11. In order to speed up their return, the Togolese Government undertook to create conditions favourable for the repatriation of those still in exile, in particular by guaranteeing their return in safety and dignity.

12. An Inter-Ministerial Committee for Voluntary Repatriation, drawn from the Ministries of the Interior, Foreign Affairs and Cooperation, Human Rights and Rehabilitation, Justice, Health, Social Affairs and the Promotion of Women, and Education, as well as UNHCR, was established to consider the modalities for implementing the agreement, including assistance and reintegration for groups returning to Togo.

13. The United Nations Commission on Human Rights, in its resolution No. 1995/52, adopted on 3 March 1995, welcomed the progress made in the field of human rights in Togo. For his part, the President of the African Commission on Human and Peoples' Rights said: "I am pleased to see not only that has Togo made a commitment for the future but also that there have been clear signs of a great improvement in the field of human rights since the current Government took office". He was more explicit at the Organization of African Unity (OAU) Heads of State Conference in June 1995, when he stated in his eighth annual report: "The President and Vice-President of the Commission visited Togo in January 1995.

14. During their visit they assessed the human rights situation in Togo, the programmes implemented and the measures already taken by the authorities to restore peace and security, as well as the amount of work still to be done to enable the process of democratization already under way to continue.

15. The conclusion reached at the end of this visit is that the Togolese Government should be supported and encouraged by the international community and African organizations, including particularly OAU, on the basis of the undertakings given by the President and Prime Minister of Togo with regard to the restoration of peace and security."

16. As part of the Government's unstinting efforts to restore the rule of law in Togo, measures continue to be taken to incorporate into domestic law all the international standards contained in the various international human rights instruments, along the lines of the African Charter on Human and Peoples' Rights.

17. Thus, according to the preamble to the 14 October 1992 Constitution, "The Togolese people are determined to build a State based on the rule of law, in which fundamental human rights, civil liberties and the dignity of the individual shall be guaranteed and protected."

18. Togo has ratified or acceded to the majority of international instruments concerned with the protection and promotion of human rights and has formally incorporated them into its Constitution in pursuance of article 50 thereof. Consequently, Togo has an obligation to submit periodic reports.

19. It is true that Togo is behind with the preparation and submission of its reports, but that is not for lack of political will. An inter-ministerial committee chaired by the Minister of Justice responsible for the promotion of democracy and the rule of law is currently preparing several reports.

20. In order to reinforce its policy of promoting and protecting human rights, the Togolese Government applied to the Centre for Human Rights for technical assistance from the United Nations. In response, the Centre sent a human rights needs assessment mission, which visited Togo between 6 and 10 March 1995.

21. The mission found that the atmosphere in Togo was peaceful and that it was therefore possible to set up a programme of technical assistance to the Government to support it in its efforts and help it to consolidate the democratic transition.

22. The programme covers the following areas: education, training, strengthening of national human rights institutions and creation of a documentation and information centre. The target groups include the police, the gendarmerie, the armed forces, youth, the judiciary and judicial aides, members of Parliament, officials of the Ministries of Human Rights, Justice and Foreign Affairs, teachers, journalists, representatives of human rights organizations and the National Human Rights Commission.

23. As can be seen, Togo did not wait for the technical assistance from the Centre for Human Rights made available to it under resolutions 1994/78 of 9 March 1994 and 1995/52 of 3 March 1995, but took the initiative as early as 1992. Togo is pleased with the current political situation and welcomes the international community's positive assessment of the improvements which have taken place in the field of human rights.

24. The United Nations Commission on Human Rights, at its fifty-second session, taking account of the progress achieved in the area of human rights, decided to terminate consideration of the situation of human rights in Togo, under resolution 1996/67 of 23 April 1996.

25. The Commission urged the Government to continue its efforts aimed at strengthening human rights and consolidating democracy and recommended that it should continue with the technical assistance provided by the Centre for Human Rights under the agreement of 23 March 1996.

26. The technical assistance programme got under way with the scheduled activities.

27. The following seminars were organized:

- Training seminar in the drafting of initial and periodic reports, Lomé, 22-26 April 1996;
- Training seminar on international human rights standards, for officials of the Ministry of Human Rights and Rehabilitation, and for staff of the National Human Rights Commission, 24-28 June 1996;
- Seminar on the role of the armed forces in the protection and promotion of human rights, for the Togolese armed forces, 7-11 October 1996;
- Seminar on the role of NGOs in strengthening democracy and promoting human rights, 12-16 May 1997;
- Seminar on human rights and the media, 16-20 June 1997;
- Training courses on human rights and law enforcement, for the judicial police and gendarmerie, 17-21 November 1997;
- Seminar on human rights in building peace, for trade unions, political parties, administration officials and members of Parliament, 2-6 December 1997;
- Seminar on the duties and independence of the judiciary, for judges and lawyers, 23-27 March 1998;
- Training course on international standards in the field of human rights, 31 August-4 September 1998;
- Training course on human rights education, for primary and secondary school teachers, Lomé, 26-30 October 1998;
- Creation of a human rights documentation and information centre.

28. The technical assistance provided by the Centre for Human Rights has therefore reinforced the work begun by the Togolese Government.

29. In his policy speech of September 1996, in order to confirm the Government's respect for human rights, the Prime Minister of the second Government of the Fourth Republic outlined the action being taken by his Government in the following areas:

- Consolidation of democracy and security for all;
- Building a more united country and reinforcing solidarity;
- Relevant economic rehabilitation measures for sustained, and lasting growth;
- Meeting educational and cultural challenges;
- Active diplomacy based on effective cooperation.

30. The Government also worked hard to put mechanisms for the protection and defence of human rights in place without delay.

31. Between August 1996 and February 1998, for example, the National Assembly enacted organizational laws permitting the establishment of the following five institutions as provided for in the Constitution of the Fourth Republic:

- Constitutional Court;
- Supreme Court;
- Supreme Council of the Judiciary;
- National Human Rights Commission;
- High Audio-visual and Communications Authority.

32. The Constitutional Court was established by the Constitutional Court (Organization) Act, No. 97-01, of 8 January 1997. It is the highest judicial authority in the State in constitutional matters. It regulates institutions and public authorities. It rules on the constitutionality of legislation and on electoral disputes.

33. A number of legal provisions have been adopted to ensure the independence of the judiciary, including:

- Fundamental Act establishing the organization and functions of judges (No. 96-11 of 21 August 1996);

- Fundamental Act establishing the organization and functioning of the Supreme Council of the Judiciary (No. 97-04 of 6 March 1997);

- Fundamental Act establishing the organization and functioning of the Supreme Court (No. 97-05 of 6 March 1997).

34. The Act concerning the judges requires the latter to rule in accordance with the law and their consciences. A sitting judge may not receive instructions from a superior in the course of his duties and may not be prosecuted, investigated, arrested, detained or tried for any opinions or interpretations he may express in his decisions or orders.

35. The Supreme Council of the Judiciary is the disciplinary body for judges.

36. In order to ensure respect for the freedom of expression and the press, legislation on the press and broadcasting (Press and Broadcasting Code Act, No. 98-004 PR of 11 February 1998, Fundamental Act establishing the composition, organization and functioning of the High Audio-visual and Communications Authority No. 96-10 of 21 August 1996) has been enacted; these Acts safeguard freedom of expression.

37. The February 1998 Press and Broadcasting Code is both regulatory and punitive, insofar as it defines and penalizes infringements of the freedom of the press; it also regulates the communications profession.

38. The High Audio-visual and Communications Authority (HAAC) is an independent institution that guarantees and safeguards the freedom and protection of the press and other mass media. It is the body that ensures equal access by political parties and associations to the official communications media (radio, television and the press) and draws up rules governing production, scheduling and broadcasting of programmes on election campaigns in the public media (Code, arts. 2 and 7).

39. All the members of the above-mentioned institutions have now been elected and have started their work.

40. In order to reinforce this process, the new Prime Minister informed the National Assembly on 3 September 1996, on the occasion of the investiture of the second Government of the Fourth Republic, that his programme of action would revolve around one keyword, "Renewal", and that one of the main priorities of that programme would be the consolidation of democracy and security. The basis of this consolidation would be respect for all the rights and freedoms enshrined in the Constitution, including the right to life, to education, to freedom of movement and to freedom of thought, conscience, religion, worship and expression.

41. To that end he recommended the speedy establishment of the remaining institutions provided for in the Constitution, in close cooperation with Parliament, with a view to defining and extending the boundaries of freedom and justice. These institutions are:

- Court of Accounts;

- High Court of Justice;

- Economic and Social Council.

42. The new Government is convinced that these institutions will make it possible to guarantee citizens' defence, as only a healthy judicial system can do. It has undertaken to improve the judicial system by placing justice on a highly moral foundation, making it accessible to all and independent from power and all other sources of influence.

43. On 15 October 1998 the Prime Minister reiterated equally firmly to the National Assembly his determination to take action in the areas of consolidation of democracy, promotion of unity and solidarity, economic revival, educational reform, restructuring of the health sector and effective international cooperation.

44. Following the presidential elections of 21 June 1998, the Head of State made a firm commitment to the consolidation of democracy and the rule of law by creating a Ministry for the Promotion of Democracy and the Rule of Law.

45. In order to implement this policy, he took two major decisions on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights.

46. First, he decided to spread human rights education throughout Togo's secondary schools. Suiting the action to the word, he visited the Tokoin Lycée in Lomé and personally presided over a ceremony marking the official launch of democracy and human rights education in Togo's schools. He invited Togolese youth to make democracy and human rights education one of the pillars of the economic development and the fulfilment of the entire Togolese people. During the ceremony, the Head of State personally distributed 12,000 copies of a democracy and human rights manual.

47. Secondly, the President proclaimed 1999 "Year of Human Rights and Dialogue" in Togo. The outcome of the implementation of this second decision was the "Lomé outline agreement". As a result of preliminary meetings between the President's supporters and all opposition parties in Paris and Lomé during May and June 1999, an inter-Togolese dialogue was initiated in Lomé on 19 July 1999. The chief aim of the partners in this inter-Togolese dialogue was to establish a climate of mutual confidence that would be conducive to national reconciliation. All the parties stated their commitment to democracy, the rule of law, respect for human rights, development and security for all. The discussions revolved around the following points:

- Respect for the Constitution and for the rules regarding the changes of government;

- Status of former Heads of State and political leaders; status of the opposition and code of conduct;

- Financing of political parties;

- Media;

- Democratic organization of elections and transparency;
- Safe return of refugees;
- Restoring Togo's international image;
- Joint Follow-up Committee (CPS).

48. The Joint Follow-up Committee, which is made up of 12 representatives of the President's supporters and 12 representatives of the opposition, assisted by facilitators, worked on the implementation of the Lomé framework agreement. The Committee drafted a new electoral code (Electoral Code Act, No. 2000-007 of 5 April 2000), which provides for the establishment of an Independent National Electoral Commission (CENI) with responsibility for organizing and monitoring elections and referendums in cooperation with the Ministry of the Interior and Security and all other State services. The members of CENI and its subsidiary bodies are appointed in equal numbers by the majority and the opposition and have very wide powers. Under article 9 of the Electoral Code, CENI has sole responsibility for:

- Organizing and monitoring referendums and presidential, parliamentary and local elections;
- Preparing regulations, records and procedures to ensure the fairness, security and transparency of ballots, on the one hand, and to guarantee electors and candidates alike the free exercise of their rights, on the other;
- Revising electoral rolls;
- Appointing members of its subsidiary bodies;
- Training election officials;
- Training voters during election periods;
- Managing the general register of electoral rolls;
- Ordering, printing and personalizing voter cards;
- Ordering ballot papers and all election equipment;
- Supervising the distribution of the election equipment to the polling stations;
- Registration, validation and publication of names of candidates;
- Drawing up lists of international observers to be invited by the Government (accreditation by the Government in cooperation with CENI);

- Appointing national observers in accordance with established criteria;

- Providing observers with identification and coordinating their work;

- Collecting and announcing the results of the ballots;

- Amicable settlement of electoral disputes.

CENI also has sole responsibility for supervising:

- Training of security officials by the Ministry of the Interior;

- Training of public and private media officials by the High Audio-visual and Communications Authority (Electoral Code, art. 12).

49. The members of CENI have now taken office: they have been sworn in by the Constitutional Court, officers have been elected and CENI has started work on organizing the next parliamentary elections, in accordance with its mandate.

50. Togo remains convinced that its social and economic development must be based on respect for human rights. Current trends in the country reveal an improvement in the human rights situation. Even so, the prospects for the effective enjoyment of economic, social and cultural rights seem limited given the devaluation of the CFA franc, which has resulted in, among other things, a substantial rise in the price of consumer goods. This places another strain on people's already meagre purchasing power and may impair their right to a decent and dignified life. The Government faces a great many challenges in this area and will only succeed with a combination of bilateral and multilateral cooperation.

51. The Togolese Government has more than a duty to establish both the necessary and the sufficient conditions for effective respect for human rights and the implementation of the International Covenant on Civil and Political Rights.

52. However, a substantial effort is still needed. The Togolese Government is fully aware that the establishment of a State fully based on the rule of law is a considerable challenge that must be met at all costs, but must be met progressively.

PART 2

INFORMATION CONCERNING THE INTERNAL MEASURES ADOPTED TO GUARANTEE THE RIGHTS AND FREEDOMS CONTAINED IN THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

53. The laws governing the new Togolese institutions were drafted by persons who were greatly inspired by the ideals of promotion and protection of human rights. The Constitution is revealing. It gives a prominent place to the rights and freedoms guaranteed by the International

Covenants on Civil and Political Rights and Economic, Social and Cultural Rights. The provisions of the new Constitution and other legislation and regulations should subsequently be harmonized.

Article 1

The right of peoples to self-determination

54. Togo is committed to the principle of the right of peoples to self-determination. Each people should be master of its own destiny. The recognition of this universal principle heralded the independence of the States under colonial domination. Togo has always supported peoples struggling to accede to international sovereignty.

55. This is a recognized principle, albeit not one that is formally expressed in the Togolese Constitution. Under the provisions of article 50 of the Constitution international instruments ratified by Togo become an integral part of the Constitution.

The right of peoples freely to dispose of their natural wealth and resources

56. The freedom to dispose of its wealth contributes to the economic and social development of a people. In its national and international policy Togo respects that right.

57. At no time in its history has Togo ever violated the right of other peoples to the enjoyment of their wealth.

58. Togo fishes exclusively in its own national waters and exploits only the natural wealth situated in its own territory.

59. At the national level Togo believes firmly in the protection of private property. The provisions of the Covenant concerning the freedom to dispose of wealth do not appear as such in the Togolese Constitution, but they are taken into account by article 50 of the Constitution, which stipulates that "the rights and duties enshrined in the Universal Declaration of Human Rights and in the international human rights instruments ratified by Togo shall be an integral part of this Constitution".

Article 2

Ensuring the enjoyment by all Togolese citizens or foreigners of the rights recognized by the Covenant

60. Article 10 of the Constitution provides that all human beings have inherent, inalienable rights which the State is bound to respect and safeguard. No consideration of race, religion or property can be grounds for derogating from that requirement.

61. The Government works every day to give practical effect to these principles. The State's efforts in this field can be seen in training and civic education seminars held throughout the country to raise citizens' awareness of respect for all human rights.

62. Foreign nationals living in Togo are afforded the same protection. They move freely in the national territory, carry out commercial activities and are not subjected to any discrimination owing to their status as aliens.

The obligation to adopt constitutional measures for implementing the rights recognized in the Covenant

63. Domestic legislation upholds human rights provisions, to which it gives a prominent place.

64. The preamble of the Togolese Constitution sets out that the Togolese State shall be committed to the protection of human rights as enshrined in the 1945 Charter of the United Nations, the 1948 Universal Declaration of Human Rights, the 1966 International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and the 1981 African Charter on Human and People's Rights. In addition, Chapter II of the Constitution is devoted entirely to rights and freedoms.

65. The Electoral Code (Act No. 92-3 of 8 July 1992) has been amended by Ordinance No. 93-02/PR of 16 April 1993, Act No. 97-15 of 15 September 1997 and Act No. 2000-007 of 5 April 2000. It contains provisions which govern election campaigns and voting. The Charter of Political Parties (Act No. 91-4 of 12 April 1991) establishes the framework for political parties in the Togolese Republic. The purpose of political parties is to assist in the expression of citizens' political will and in their training in civic issues. Freedom of the press is ensured by Act No. 98-004 of 11 February 1998.

66. However, all the provisions relating to public freedoms still need to be incorporated into other texts (the Penal Code, the Code of Criminal Procedure, the Individuals and Family Code and the Nationality Code).

67. In the final analysis, there can be no doubt that the provisions of the international human rights instruments are taken into consideration in the Togolese Constitution. They may thus be invoked before Togolese courts.

Ensuring remedies; judgements and the execution of decisions taken in cases of violation

68. Concerning remedies, all persons who feel that they have been a victim of human rights violations can turn to private human rights defence bodies, associations and leagues, to the National Human Rights Commission (CNDH) or to the courts.

69. The activities bodies of the first two types are limited to mediation. It is for the courts to act to restore the victims' rights whenever violations are proven.

70. The authorities competent to deal with human rights violations are the members of the CNDH, officials of the Ministry of Promotion of Democracy and the Rule of Law and the judicial and administrative authorities.

71. In addition, as Togo is a party to the Optional Protocol, individuals are entitled to petition the Human Rights Committee.

Article 3

The principle of non-discrimination on the ground of sex

72. In respect of the enjoyment of civil and political rights, the Togolese Constitution contains no restriction on the ground of sex. According to the provisions of article 11, all human beings are equal in dignity and in rights. This text states unequivocally that men and women are equal before the law.

73. Political and trade union freedoms are recognized as the right of both men and women. Both are entitled to vote and to be elected.

74. Not only is the status of women in Togo officially recognized by the Constitution of 14 October 1992; it is also established by the following legislative and regulatory texts, the constant aim of which is the promotion and protection of women's rights:

- The Ordinance to establish general regulations applicable to public servants of the Togolese Republic;
- The Ordinance to establish a Social Security Code;
- The Ordinance to establish the Labour Code;
- The Ordinance to establish the Togolese Nationality Code;
- The Ordinance to establish the Individuals and Family Code;
- The Act to establish the Penal Code;
- The Act to establish the civilian and military pension scheme and the pension fund of Togo;
- The Act to prohibit female genital mutilation.

75. There is thus a body of creative legal principles protecting women's rights, which any woman can invoke and demand to have enforced, whether in the family unit, in education or in working life.

76. In family life, marriage does not alter the legal capacity of women in Togo. The legislature has thus taken care to set 17 years as the legal age for girls to contract marriage. This basic condition set out by article 43 of the Togolese Individuals and Family Code (Ordinance No. 80-16 of 31 January 1980) is applied in addition to the requirement for prior personal

consent by the future spouses. Failure to meet both these conditions can be invoked to annul a marriage. This demonstrates the Togolese State's will to confer upon women the status of citizens who control their own destinies.

77. The law goes further, as it limits the bride-price to 10,000 CFA francs. That is a token amount which should act as a check on customary practices whereby the bride-price is seen as a sign of the man's strength. Under these practices men are often asked to pay exorbitant amounts, which has the long-term consequence of making the wife dependent.

78. The Individuals and Family Code stipulates that married women have the right to exercise any occupation. In the event of unjustified opposition by the husband, the law permits the wife to disregard his objection. This principle means not only that the expressed will of the wife will prevail and that she will not be subjected to the will of her husband, but also that there is no discrimination in her choice of occupation.

79. Furthermore, while the husband remains the head of the family, in Togo the wife cooperates with him in the material and moral supervision of the home. She can even replace the husband as head of the family if he is absent, far from home or incapable of acting in that capacity. Parental authority, one of the basic prerogatives of the home, is exercised by both spouses, and in the event of a divorce priority is given to the mother when deciding on the custody of children under age seven.

80. As regards education, married women are not neglected. Under article 35 of the Togolese Constitution, education is compulsory and is gradually being extended free of charge for children of both sexes, up to the age of 15 years. The State thus ensures equal access to knowledge for boys and girls, both in respect of the subjects taught and practised and enrolment formalities.

81. According to the statistics drawn up by the Directorate-General for Education Planning (1989-1990 annual yearbook), in 1989-1990 there was a total of 33,854 boys aged 10 to 15 enrolled in grades 5 to 8, as compared with 15,842 girls. Thus, 68.12 per cent were boys and 31.87 per cent were girls.

82. At the tertiary level, the numbers of children enrolled are as follows: 10,775 boys enrolled in the highest three grades, as against 2,312 girls, or 82.33 per cent boys and 17.66 per cent girls.

83. Generally speaking, the enrolment rate is much higher for boys than for girls. A look at the statistics below shows that the disparities between boys and girls becomes more marked as they move up to higher levels of education. This disproportion can be explained mainly by sociological inhibitors. These the Government is undertaking to overcome through awareness campaigns addressed in particular to the large rural populations, among whom the phenomenon is much more pronounced.

84. To encourage schooling of girls, the Government has reduced tuition fees and has eased the conditions for the granting of higher-education scholarships to them.

85. The inequalities noted in the ratio of girls to boys at the various levels of education are reflected in the statistics below:

Trends in numbers of students by level and sex

Primary level

	1992-1993	1993-1994	1994-1995
M.	183 816	397 874	453 495
F.	83 830	265 252	308 642
T.	267 646	663 126	762 137

Secondary level

	1992-1993	1993-1994	1994-1995
M.	24 892	77 874	86 988
F.	9 977	29 490	33 897
T.	34 869	107 364	120 885

Tertiary level

	1992-1993	1993-1994	1994-1995
M.	1 772	16 028	20 752
F.	327	2 943	4 080
T.	2 099	18 971	24 832

Fourth level

M.	8 020
F.	1 119
T.	9 139

Technical education

M.	5 858	5 520
F.	1 818	2 111
T.	7 676	7 631

Source: Annuaire National des statistiques Scolaires, 1994-1995, edited by the Directorate-General of Planning.

86. At work, Togolese women enjoy the same rights as men. The interoccupational collective agreement, the general regulations applicable to public servants and the Labour Code do not contain any conditions which discriminate against women.

87. The Labour Code, for example, regulates the working time of pregnant women to their benefit. Childbirth cannot be considered as a cause for termination of a contract, and nursing mothers are entitled to one hour of rest during the working day.

88. The general regulations applicable to public servants stipulate that men and women shall have equal access to the public service.

89. In practice, the Government's desire to provide employment to citizens of both sexes was manifested in 1984 in the establishment of competitive recruitment examinations equally open to candidates of either sex. The procedures for the promotion, career advancement and remuneration of male and female public servants are based on egalitarian principles. Togolese women public servants are thus entitled to the same salaries as men.

90. The same equal rights apply as regards access for citizens of either sex to positions of high responsibility.

91. There are currently two women ministers in the Government and five women in the National Assembly. In this field the catch-up needed is considerable, and there is much to be done. However, there are 25 girls among the 81 representatives in the "children's parliament".

92. On the other hand, in the courts, medicine and higher education there are large numbers of women. Admittedly, their proportion is small when compared with that of men. One reason for this stems from the fact that Togolese women tend to prefer the informal sector. Women thus control the majority of trade channels in Togo, and it is not rare for young women with university degrees to take up work in that sector.

93. Until relatively recently, the excision of girls was occasionally practised in certain circles in the country. The practice is now disappearing. Excision, a matter of serious concern in other countries, is not generally part of Togo's national culture. Animist and Christian religious beliefs militate against it. However, in order to eradicate excision systematically, on 29 October 1998 the National Assembly adopted an Act prohibiting it.

94. Following the adoption of this Act, the Ministry for Social Affairs and the Promotion of Women established a committee to monitor its implementation and a national plan for the complete eradication of excision.

95. The campaign launched by the committee has made it possible, in the regions already covered, to raise awareness among the women who carry out the practice and to induce them to cease and desist and, with the help of the Ministry, to take up new income-generating activities.

96. In practice it is simply necessary to raise women's awareness of the existing texts which benefit them. It is for them alone to invoke them and enjoy the rights they confer, without any administrative technicalities, but with the help of the public authorities and the support of civil society.

97. This raises the long-standing problem of illiteracy and the circulation of information, which affects not only women but the entire population.

98. It was precisely in this context that in preparation for the Beijing World Summit on Women campaigns were launched throughout the national territory to raise women's awareness of their situation and to help find solutions.

99. To that end the women of our country drew attention to themselves by making a substantial contribution to the drafting of an African platform highlighting their current concerns, which included the following:

- Women, poverty and economic power;
- Women, science and technology;
- Women and culture;
- Women, health and family planning;
- Women and environmental problems ...

100. Women's issues are today a priority for government policy, and there are good prospects for the future.

Articles 4 and 5

Derogations

101. Article 4 of the International Covenant on Civil and Political Rights entitles the States parties, in case of serious emergency, to make derogations in respect of certain rights. The Covenant also specifies the rights which are non-derogable. The Secretary-General of the United Nations must be notified of any derogations.

102. The Togolese Constitution does not specify the rights in respect of which derogations are permitted. It merely provides in article 94 that a state of siege and a state of emergency shall be decreed by the President of the Republic in the Council of Ministers. This text provides that the conditions for the application of a state of siege and a state of emergency shall be determined by an organic law.

Article 6

The right to life

103. The right to life is sacrosanct and as such must be afforded the greatest protection. This right is not subject to derogation even if an exceptional emergency threatens the existence of the nation.

104. The social and political turmoil which Togo experienced during the period of democratic transition has adversely affected the right to life. Conscious of this, the Head of State and the Prime Minister have on several occasions convened meetings of the heads of the security

services and given them strict instructions to improve security arrangements. To foster national reconciliation, the then Minister of Human Rights and Rehabilitation organized training tours and seminars to explain to the public the need to end the spirit of hatred which was causing divisions, to foster peaceful coexistence and to permit all citizens to enjoy fully their right to life. These efforts produced very positive results which contributed to a clear improvement in respect for the right to life.

The death penalty

105. The Togolese Penal Code was adopted by Act No. 80-1 of 13 August 1980. It was in its specific provisions concerning criminal sentences (art. 17) that the legislature established capital punishment as the supreme sanction.

106. The range of offences to which the death penalty applies is actually quite limited and comprises:

- Intentional homicide carried out with premeditation or lying-in-wait, or against an ascendant or for ritual purposes, or to prepare, facilitate or complete an offence against property or against public morals;

- Attack against external State security: treason and espionage (arts. 222 and 223 of the Penal Code);

- Attack against internal State security: internal conspiracy and incitement to civil war (arts. 233 and 234 of the Penal Code).

107. At the time when the Penal Code was drawn up, the concerns of the legislature took into consideration the social and political reality in the country.

108. However, despite the existence of this provision, the Togolese courts have very seldom sentenced people to death. So far, only two death sentences have been handed down and executed.

109. The National Legislation Harmonization Commission is currently taking this into consideration as it revises the Penal Code.

110. The right to grant a pardon is the prerogative of the Head of State, who exercises it in the light of an opinion given by the Supreme Judicial Council (art. 73 of the Constitution). The procedure to be followed in petitioning for the right of pardon is set out in articles 515-522 of the Togolese Code of Criminal Procedure.

111. The conditions for the execution of the death penalty are laid down in articles 491-494 of the same Code.

Article 7

Physical or mental torture and cruel, inhuman or degrading treatment or punishment

112. The practice of torture is strictly forbidden. This is a provision which cannot be derogated from under any circumstances.

113. (a) In Togo there can be no justification for practising torture. Togo is a party to the African Charter on Human and Peoples' Rights and in 1987 ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

114. Torture has always been condemned. Article 21 of the new Constitution provides for the effective suppression of the practice of torture.

115. Furthermore, in order to ensure a better guarantee of individuals' physical integrity, article 21 of the Constitution stipulates that "The human person is sacred and inviolable.

- "No one may be subjected to torture or other forms of cruel, inhuman or degrading treatment;

- "No one may avoid a sentence for such violations by referring to the order of a superior or a public authority;

- "Any individual or agent of the State guilty of carrying out such acts either on his own initiative or under orders shall be punished in accordance with the law;

- "Any individual or agent of the State shall be relieved of the duty to obey orders when the order in question is a serious and clear violation of respect for human rights and public freedoms."

116. To defend their rights, citizens may appeal to administrative and judicial bodies (the CNDH, the Ministry of Promotion of Democracy and Rule of Law, tribunals and courts).

117. (b) Apart from the Constitution, the African Charter on Human and People's Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Togo is not a party to any other instruments containing broader provisions giving protection against torture.

118. (c) The Togolese Penal Code contains no provisions specifically relating to torture, but it does have provisions for practices causing bodily harm, which are referred to as wilful violence or assault (arts. 46 and 47 of the Togolese Penal Code).

119. On the other hand, the Constituent Assembly of the Fourth Republic affirmed its will to combat all forms of violence, by stipulating that:

> "All defendants or detainees must be given treatment that preserves their dignity and their physical and mental health and that assists in their social reintegration" (art. 16, para. 1).

120. The above provisions mean that any person who commits such acts must be tried and sentenced by the competent courts.

121. In such matters, only the ordinary law courts (in this case the correctional courts) are empowered to hear cases involving these offences; but in the light of the consequences of the incriminated acts or the quality of the offender, they may be heard by the Court of Appeal (Court of Assize) or the Judicial Chamber of the Supreme Court.

122. The Togolese justice system has not yet heard a typical case of torture. However, there have been many cases recorded under the qualification of wilful violence and which cannot be treated as cases of torture or cruel, inhuman or degrading treatment.

Article 8

Prohibition of the slave trade

123. Togo is a party to the international instruments which prohibit the slave trade and all other slavery-like practices. On 14 March 1990 Togo ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

124. Slavery is not practised in Togo. Provisions concerning slavery are not the subject of major concern, and consequently there are none in the new Constitution.

125. Nonetheless, the preliminary draft of the Togolese Code of Rights and Duties of the Child addresses some of the modern forms of slavery-like practices. For example, in the field of international adoption, article 89 of this preliminary draft stipulates that the competent Togolese authorities must take all appropriate measures to ensure that the placement of Togolese children in other countries does not entail trafficking. Similarly, in its provisions concerning the protection of child victims of acts of violence, the preliminary draft refers to the protection of children from sale and trafficking (arts. 646 and 647).

126. The same preliminary draft of the Code of Rights and Duties of the Child punishes persons who engage children in begging, with sentences of one to 20 days' prison labour. This penalty is derived from the one contained in the Penal Code of 13 August 1980, which applies the same punishment to vagrant youths.

127. A recent study carried out by a non-governmental organization working locally, WAO-Afrique, mentions that there is a trafficking ring which brings Togolese children to Gabon, via Benin and Nigeria, for work as domestic servants.

Articles 9 and 11

The right of everyone to liberty and security of person

128. Everyone is entitled to have his security and liberty guaranteed. This encompasses the prohibition of arbitrary arrest (art. 15 of the Constitution).

129. The arrest, indictment and sentencing of defendants are regulated by the Code of Criminal Procedure. Similarly, articles 15-20 of the 1992 Constitution lay down the conditions of arrest of persons accused of breaking the law. Article 19 provides for compensation for damage resulting from a miscarriage or malfunctioning of justice.

The prohibition of arbitrary arrest

130. The conditions under which an individual may be questioned and arrested are strictly laid down by the law. An individual may be arrested and charged only with good cause, namely a breach of the criminal law.

131. Under Togolese law, indictment is regulated by article 92 of Act No. 83-1 of 3 March 1983 establishing the Code of Criminal Procedure.

132. It is strictly forbidden to arrest anyone for a civil or commercial debt.

133. Police officers are not entitled to make an arrest without a warrant except in cases of flagrante delicto. While these provisions are sometimes violated in practice, the courts would take action in such cases.

Personal safety measures

134. The abrupt rise in violent crime (murder, assault and battery, killings, armed robbery followed by murder) has been attributed to the difficulties the country faced during the social and political turmoil of the 1990s.

135. Today violent crime, which is a serious offence against the life, liberty and safety of the individual, is still prevalent. Indeed, some cases reported to the police have involved complaints of persons injured or killed in their homes, or armed carjackings carried out by well-organized groups of criminals.

136. In order to ensure personal safety the authorities have had to take both preventive and repressive measures.

137. To prevent crime the authorities have established district police stations and special local police patrol units.

138. As a first step the district police stations were established by an order of 6 February 1995, replacing the arrondissement police stations. Their mission is to organize patrols both during the day and at night. They now have been given some appropriate emergency response equipment thanks to international cooperation although on a limited scale.

139. Lastly, the establishment of special local police patrol units is based on the idea that the police force must now be close to the population it must protect. This has led to the establishment of a special corps whose task it is to patrol certain public places. Daily joint patrols involving all the security forces, are organized, in particular in neighbourhoods reputed to be vulnerable and often targeted by criminal groups.

140. As for repressive measures, action is taken as soon as an offence is committed, no matter how serious it may be. Over and above the powers of judicial police which are conferred on all police units (with the exception of those in charge of keeping the peace), the police now have two units specialized in investigating and controlling crime in the broad sense of the term.

141. There is now a crime control brigade whose task consists in investigating cases of flagrante delicto. What is more, this unit operates throughout the city and responds to victims' requests, in particular those lodged by telephoning the police emergency services.

142. The work of the crime control brigade is complemented by that of the investigation and intervention brigade, which is based with the judicial police and consists of officers trained mainly in investigation and intervention techniques at crime scenes. This investigation mission makes it possible to infiltrate criminal networks as they are forming and thus to forestall their actions.

Protection against arbitrary deprivation of life by State security forces

143. Article 49 of the Constitution stipulates that the mission of the security and police forces, under the authority of the Government, is to protect the free exercise of rights and freedoms and to guarantee the safety of citizens and their property. In addition, article 21, paragraph 4, of the Constitution stipulates that all agents of the State who are guilty of acts of violence such as torture or ill-treatment shall be punished in accordance with the law.

144. We must refer in this connection to the sanctions set out by the provisions of articles 149 et seq. of the Penal Code of 13 August 1980, which specifically list penalties applicable in the event of criminal malfeasance in public office. This term covers: "Any crime or offence committed in or during the exercise of his functions by a magistrate or a public servant holding public authority" (art. 149, para. 1, of the Penal Code). In the event of a curtailment of freedom, the guilty party is subject to twice the penalty applied to individuals (art. 150, para. 1, of the Penal Code). If the crime is punishable by a life sentence, the penalty in the event of malfeasance in public office can be death. In addition, persons holding public authority (in this context the officers of the judicial police) incur civil liability.

Article 10

The treatment of prisoners

145. The conditions of treatment of defendants and detainees, such as respect for their dignity and the rule regarding segregation of accused persons from convicted persons and adult prisoners from juvenile prisoners, are provided for by the Constitution (arts. 16 and 17); by Order No. 488 of 1 September 1933 on the prison system in Togo (arts. 9, 10, 16); and by the decree of 30 November 1928 on the regulations pertaining to minors.

146. In practice, the imprisonment and living conditions of prisoners and their preparation for returning to society are not properly ensured because of a lack of financial resources. The prison authorities often adduce financial problems as the reason for the difficulties in applying these various measures.

147. The conditions of detention of defendants in places of detention (police and gendarmerie stations) or in prisons may indeed appear troubling in the light of the recommendations in article 10 of the Covenant.

148. There are two reasons for the failure to apply these provisions:

(i) The lack of training in basic human rights of prison warders;

(ii) Material problems related to the absence of structures or infrastructures appropriate for the effective application of the Covenant's guidelines.

149. On the first point, there is no doubt that if the staff guarding the various detainees and prisoners were given sufficient training or initiation in human rights problems the numbers of violations of those rights, which are currently frequent, would fall; they might even cease completely.

150. Efforts are being made to acquaint the various persons involved in this sector with the concepts required to attain this objective. To that end, in December 1998 the Ministry for Promotion of Democracy and the Rule of Law posted up and distributed the text of the Universal Declaration of Human Rights in Lomé at the central police station and at the court house. During the same period the text was also posted up and distributed in the capital cities of the country's five regions.

151. The effort to spread knowledge of human rights will continue throughout the national territory, in particular in all police stations, prisons and other places of detention.

152. As for the second point, prisons have not yet been equipped with structures appropriate for the strict application of article 10 of the Covenant. Unfortunately, accused persons and convicts and adult prisoners and juvenile prisoners are mixed in overcrowded conditions harmful to the most vulnerable among them.

153. Here too the problem is that of means available to allow the country to have proper and adequate penitentiaries that meet international standards.

154. The Ministry of Justice of Togo, conscious of these problems, has taken a series of steps to raise awareness and to train prison guards in Togo.

155. The Ministry of Justice, in cooperation with the Embassy of the United States of America in Togo, held training seminars on the subject of "Justice and Prison Life" for Togolese prison management staff in Lomé on 12 and 13 October 1995 and in Kara on 18 and 19 October 1995. The seminars, designed for managers, prison wardens, heads of the territorial security forces, magistrates, lawyers, chaplains, officials from the Department of Social Affairs and representatives of the Ministry of Human Rights and Rehabilitation, permitted the participants to share their experiences on various matters, including:

- The responsibilities of prison staff;
- The relationship between investigating magistrates and the prison administration;
- The rights and duties of detainees.

156. Following these seminars, some recommendations were made to decision makers in the prison administration and in the Ministry of Justice.

157. These recommendations concerned such matters as the independent management of the prisons, the establishment of new infrastructures, the reorganization and equipping of prisons and the health and hygiene conditions of detainees.

158. The Head of the French Cooperation and Cultural Action Mission recently agreed to fund a project to improve living conditions in detention centres in Lomé (the Lomé civil prison and the Juvenile Brigade) by providing the Ministry of Justice and the Ministry of Human Rights and Rehabilitation with a fund amounting to 50 million CFA francs. On 1 December 1997 this project was launched with a "first-sod" ceremony at Lomé Civil Prison.

Articles 12 and 13

Right to liberty of movement

159. Article 22 of the Constitution of 14 October 1992 sets out the right to liberty of movement and specifies: "Every Togolese has the right to liberty of movement and freedom to settle in the national territory at any place of his choice, under the conditions stipulated by the law or local custom."

160. Articles 23 and 24 of the 1992 Constitution also apply. Article 23 prohibits the expulsion or extradition of an alien from Togolese territory, subject to a decision taken in accordance with the law and an opportunity for the alien to present his defence to the competent judicial authority.

161. Article 24 prohibits the extradition of any Togolese from Togolese territory.

162. The two articles necessarily distinguished between the status of a Togolese resident in Togo and an alien resident in Togo.

Status of a Togolese citizen resident in Togo

163. In this case, freedom of movement involves the right of a citizen to leave his country and to return at any time, without any difficulty. Similarly, every Togolese is entitled to move within Togolese territory and freely choose his place of residence.

164. To begin with, the right of every Togolese to settle in Togo stems not only from the prohibition on extraditing any Togolese from national territory, as stipulated in article 24 of the Constitution, but also from a number of statutory provisions establishing the residence requirement, for nowadays the notion of domicile is increasingly rivalled by the concept of residence. The annex to the Individuals and Family Code of 31 January 1980 identifies a person by his name and his domicile and, failing the latter, by his residence, which is regarded as the place where a person actually lives.

165. In fact, domicile, as referred to in the annex to the Individuals and Family Code of 31 January 1980 is simply legal domicile, in other words, the one imposed by the law. From this standpoint, a child is domiciled at the home of his mother and father or the person who acts as his guardian, whereas a married woman is deemed to be domiciled at her husband's home.

166. In addition to the conjugal domicile there is elected domicile, as provided for in the Code of Civil Procedure of 15 March 1982 and Code of Criminal Procedure of 2 March 1983.

167. This is a domicile agreed between a lawyer and his clients and it produces some or all of the effects of domicile, namely, the permanent or unchangeability of domicile. In any event, elected domicile is to be regarded as the place at which an individual exercises his recognized rights. There is also domicile of choice, in other words, a person's freely chosen domicile.

168. Accordingly, every Togolese citizen can move to any part of Togolese territory, provided he produces evidence of a fixed domicile. During the democratic process, freedom of movement has been restricted as a result of violence and insecurity.

169. Lastly, the right of any Togolese to leave and return to Togo is subject to restrictions, more particularly, to producing travel papers. Within ECOWAS it is enough to produce a valid identity card, but that is not true for travel to Europe, the American continent and other places, for which the requisite travel document is a passport.

Status of an alien wishing to reside in Togo

170. This matter is governed by Act No. 87-12 of 18 November 1987 concerning the control of aliens and Decree No. 96-113 of 16 October 1996 specifying the general conditions for the issue of visas and residence permits and establishing special regimes.

171. Under Decree No. 96-113, a general regime entry visa or residence permit is issued on Togolese territory by the Director-General of Police (or the Ministry of Foreign Affairs and Cooperation in the case of members of diplomatic and consular missions and of international organizations). The conditions are as follows: a valid passport lasting longer than the visa, so as to enable the alien to return to his country of origin or enter a third country; three photos; a vaccination booklet conforming to WHO vaccination requirements; a visa application form; evidence of sufficient financial means. It should be noted that the visa cannot be placed in a travel document that is out of date.

172. Outside Togo an entry visa or residence permit is issued by diplomatic and consular missions, honorary consulates of the Togolese Republic and any other diplomatic and consular mission of other countries mandated by Togo.

173. Diplomatic or courtesy visas, still known as official visas, are valid from one to three years, as appropriate, but the same is not true of regular visas, which are valid for 1 to 90 days for a short-stay visa and more than 90 days for a long-stay visa.

174. An alien must apply for a residence permit when an unbroken stay or the total duration of successive stays exceeds three months per half year as from the date of the first entry. It is issued by the Directorate-General of Police. The requirements for a residence permit are as follows: a police record from the country of origin not more than three months old; a medical certificate not more than three months old; a photocopy of the first three pages of the passport; six photographs; three stamped addressed envelopes; a stamped application addressed to the Directorate-General of Police; completion of two information forms obtainable from the Directorate-General of Police (art. 12, Decree No. 96-113).

175. For members of diplomatic and consular missions and international organizations, a diplomatic card replaces a residence permit and is issued by the Ministry of Foreign Affairs and Cooperation (art. 10, Decree No. 96-113).

176. A Togolese entry visa or residence permit for nationals of certain States of North America (Canada and United States of America); Latin America (Argentina, Federal Republic of Brazil, Bolivia, Chile, Ecuador, Paraguay, Uruguay and Venezuela); Central America and the Caribbean (Bahamas, Belize, Costa Rica, Cuba, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua and Panama); States of the European Union parties to the Schengen Agreement; Ukraine and Byelorussia; North African States (Algeria, Libya, Morocco); East African States (Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Tanzania and Uganda); Central African States (Cameroon, Gabon and Zaire); Southern African States (Republic of South Africa, Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Zambia and Zimbabwe); and other African States (Comoros, Mauritius, Madagascar, Sao Tomé and Principe and Seychelles) is issued subject to special regimes and is valid for a minimum of one month and a maximum of six.

Article 14

Equality of citizens before the law

177. The principle of the equality of citizens before the law is guaranteed in Tologese legislation. Every citizen is entitled to have his case heard by the courts. There is not one kind of justice for the rich and another for the poor. Under article 7 of Ordinance 78-35 of September 1978, concerning the organization of the judicial system in Togo, hearings in all matters are public unless this constitutes a danger for public order or morals.

The right to go to court

178. Various texts recognize the right of everyone to bring a matter freely before the Togolese courts (arts. 5-7 of Act No. 80-1 of 13 August 1980, establishing the Togolese Penal Code). In application of article 50 of the Constitution, everyone is entitled to invoke in Togolese courts the rights and freedoms guaranteed by law.

The presumption of innocence

179. It is a principle of criminal law that everyone is presumed innocent until he is proved guilty and so declared by the courts. This principle is laid down in article 18 of the Togolese Constitution.

The right to a defence

180. Everyone is entitled to defend his interests before the Tologese courts. Article 11 of Ordinance No. 78-35 of 7 September 1978, concerning the organization of the judicial system in Togo, specifies that:

> "In no case may anyone be tried without having been given the opportunity to put forward a defence. Lawyers have free access to all courts. Everyone shall be free to prepare his defence and to choose defence counsel."

181. Similarly, during the examination phase, the magistrate is obliged to inform the accused of his right to choose council (art. 92 of the Code of Criminal Procedure).

182. The assistance of a lawyer is mandatory in criminal cases (art. 186 of the Code of Criminal Procedure).

Safeguarding the independence of the courts

183. The independence of the judiciary is established in the Constitution.

184. The Togolese Government recognizes that the independence of the judiciary is a sine qua non for safeguarding human rights in a democratic State.

185. Mindful of this fact, three years after adopting the Basic Law of the Fourth Republic, it embarked upon the process that was to lead to the vote on the organizational laws concerning the status of the judiciary, an indispensable step in guaranteeing the independence and proper functioning of the judicial system.

186. On 14 May 1996 the National Assembly unanimously adopted the Organizational Act on the Status of the Togolese Judiciary. That adoption met the requirement of article 118 of the Constitution guaranteeing the independence of the judiciary.

187. Similarly, efforts have been made in recent years to increase the number of judges, who are trained at the Lomé National Administration School. From 1993 to 1998, the School trained 83 judges, i.e. 15 to 17 a year. This government project was continued until 2000. Admittedly, efforts still need to be made, particularly to ensure advanced training for judges in courses abroad.

The right of everyone to be tried within a reasonable period

188. Defendants and accused persons must be tried within a period consistent with the protection of human rights.

189. Anyone accused of a crime or offence is presumed innocent until he is sentenced by a criminal court.

190. Legal procedures afford accused persons who are not tried within the legal time limit an opportunity to apply for release on bail.

191. Under article 113 of the Code of Criminal Procedure, where the maximum penalty established by law is less that two years' imprisonment an accused person domiciled in Togo may not be detained for more than 10 days after his first appearance before the examining magistrate.

192. Release on bail is also automatic when the period of pre-trial detention reaches half the maximum penalty incurred and the accused person is a first-time offender.

193. However, apart from cases where release on bail is obligatory, the examining magistrate may, after the Attorney-General has presented his arguments, on his own authority order release of the accused person, who shall be required to appear at every step in the proceedings whenever summoned.

194. Release may also be applied for by the accused person at any time.

195. In the Assize Court accused persons may not be tried more than six months after the order of committal for trial (art. 202 of the Code of Criminal Procedure).

196. Despite the guarantees under the law, the Togolese judicial system is rather slow. The basic reason is the shortage of judges.

Procedure applicable to minors

197. In criminal proceedings minors have the benefit of protective treatment. Persons under 13 years of age are not criminally responsible (art. 455 of the Code of Criminal Procedure).

198. Persons under 13 years of age are tried by a special judge (the juvenile judge).

199. Publicity is forbidden in trial proceedings involving minors. Penalties for acts committed only exceptionally are not noted in section 3 of the judicial record.

200. The procedure concerning the investigation and trial of cases involving minors is regulated in Title X of the Code of Criminal Procedure, the Decree of 30 November 1928, which is still in force in Togo, and Ordinance No. 5 of 17 February 1969 establishing juvenile courts.

Article 15

The prohibition of retroactive sentences

201. Articles 1 and 2 of the Togolese Criminal Code forbid the imposition of criminal penalties for unlawful acts committed prior to the entry into force of the criminal law concerned.

202. Under no circumstances may a judge impose a criminal penalty for acts which did not constitute offences at the time they were committed.

Article 16

The right to legal personality

203. Every individual is entitled to the recognition of his legal personality, which enables him to enjoy all his inherent rights as a human being.

204. The capacity to enjoy these rights is sometimes restricted by legislation. This occurs in the case of guardianship and the legal administration of the property of unemancipated minors and of persons suffering from degeneration or mental disorders (art. 316 et seq. of the Individuals and Family Code).

205. A minor is an individual of either sex who has not reached the age of 21 years. This means minority for civil purposes as provided for in article 265 of the Individuals and Family Code. The age of criminal majority is 18.

Article 17

The protection of the family, the home and correspondence

206. In Togo family law is regulated by Ordinance No. 80-16 of 31 January 1980, establishing the Individuals and Family Code. The Code includes, provisions governing name, marriage, descent, matrimonial regimes, parental authority and inheritance.

207. The Individuals and Family Code deals extensively with problems involving the protection of women and children, but it is silent on the protection of the elderly. However, article 33 of the 1992 Constitution provides an encouraging solution by making it obligatory for the State to protect the rights of elderly persons.

208. The Togolese Penal Code, for its part, lays down various penalties for non-observance of family law - for instance, offences against the family order (arts. 71-77) and offences against morality.

209. The protection of the home stems from article 28 of the Constitution of 14 October 1992, which stipulates: "The home shall be inviolable. It may be searched or inspected by the police only in the manner and under the conditions established by law." In this connection, the Code of Criminal Procedure of 2 March 1983 prohibits the police authorities from conducting searches or inspections before 6 a.m. and after 8 p.m. (Penal Code, arts. 48-51).

210. Every citizen's right to confidentiality of correspondence is also safeguarded by the Constitution of 14 October 1992, more particularly by article 29. In addition, the Penal Code of 13 August 1980 renders anyone who infringes the privacy of correspondence by acquainting himself by any means with its content, without the agreement of the addressee or the sender (art. 177 (1) (i)), and anyone who has in any way organized interference with and tapping of private oral, optical, magnetic or other communications exchanged or received in a private place, without the agreement of the owner of that place, liable to imprisonment and a fine (art. 177 (1) (iv)).

211. The exceptions are those established by law or ordered by the public authorities, so that anyone guilty of misusing or abusing the powers attached to his public duties is liable to two months' to three years' imprisonment (art. 177 (2)).

Article 18

Freedom of conscience and religion

212. Freedom of thought, conscience and religion is established in article 25 of the Constitution. Today all religions are practised freely. Article 25 of the Constitution guarantees freedom of religion: "Everyone is entitled to freedom of thought, conscience, religion, worship, opinion and expression. These rights and freedoms shall be exercised with respect for the rules

established by the law and the regulations. Religious beliefs shall be organized and practised freely with respect for the law. The same shall apply to philosophical groupings. Worship and the expression of beliefs shall respect the State and its secular nature. Religious denominations shall be entitled to organize and exercise their activities freely with respect for the law."

213. Accordingly, the Government considers freedom of religion to be a fundamental right that has to be protected. Overall, there are three main religious groups on Togolese territory: Animism, Christianity and Islam.

214. The Government is mindful of the importance of freedom of belief in Togo, inasmuch as the 1992 Assembly did not hesitate, in the very first sentence of the preamble to the Constitution, to place the Togolese people "under the protection of God".

215. Specifically, so as to place no obstacle in the way of the practice of religion, the Government has placed this right under the same regime of implementation as the right of association. It is governed by the 1901 Act. To obtain official recognition, a religious association must produce for the Ministry of the Interior its statutes, the record of the constituent meeting and a list of the members of its executive board.

216. This administrative formality, which has deliberately been made simple, has made for proliferation of religious sects and organizations. More than 176 religious bodies were listed in 1996.

217. All these religious sects and organizations co-exist peacefully and engage in intensive activity at local level. For example, they enjoy freedom of association, which enables them to organize public and private worship, marches by the faithful along various main streets in the capital, and so on.

218. Article 1 of the Constitution, which specifies that Togo "is a secular, democratic, social State governed by the rule of law", presupposes the absence of any constraints on practising the religion of one's choice.

219. For this reason, in the educational field any religious denomination can establish its own school. Citizens may attend Protestant, Islamic, Catholic or other schools, as they wish.

220. Furthermore, in terms of the family, members of one and the same household may freely practise different religions.

221. Nowadays, the various religious groups, which constitute a force of their own, contribute in their way to building up a State governed by the rule of law through enjoyment of freedom of conscience.

Article 19

Freedom of expression and freedom of the press

222. Freedom of expression and the press are guaranteed and protected by articles 25 and 26 of the Constitution respectively. However, it is Act No. 98-004/PR of 11 February 1998, as amended and supplemented by Act No. 2000/006/PR of 23 February 2000, establishing the Press and Communication Code, which forms the statutory framework regulating the exercise of press freedom. An independent constitutional body (the High Audio-visual and Communications Authority) monitors respect for professional ethics in the media and equitable access by the political parties to the public media. It is also the body for promoting and protecting freedom of the press in Togo. Seminars were organized for journalists in order to raise their standards of performance. The subjects included:

- Human rights and the media (16 to 30 June 1997);
- The press, ethics and legislation (17 to 19 August 1999);
- The language of the media in times of conflict (10 to 12 November 1999); and
- Sound governance and the campaign against corruption in Togo (13 to 18 September 1999).

223. Furthermore, a fund to assist and support the press was established with budget allocations in 1999. An Act on the organization of journalists and media technicians was adopted by the National Assembly in August 2000.

224. The Committee's remark concerning restriction of freedom of expression in Togo should be viewed in terms of the times and the subject matter concerned. Liberalization of the press has led on the one hand to the appearance of an abundance of private newspapers, magazines and radio stations expressing diverse political opinions, and also open debate on the State media.

225. At the present time there are approximately 92 newspapers and magazines, 14 radio stations and 1 television channel.

226. Unfortunately, the private press immediately engaged in a campaign of spreading false information and insulting and defaming the State authorities, the army and citizens. It was against this background of increasing disorder that the judicial authorities, responsible for enunciating the law, were seized with cases of press offences. In all cases the proceedings were brought in accordance with the Press and Communication Code.

227. It should be noted that currently many newspapers and magazines have closed down, either for financial reasons or on account of bad management.

Article 21

The right of assembly

228. Under article 30 of the Constitution of 14 October 1992, the State recognizes and guarantees, under the conditions established by law, the right to assemble and to demonstrate peacefully, without any violence.

229. First of all, the right to assemble and demonstrate peacefully is set out in a number of statutory provisions.

230. These include the Act of 8 July 1992 establishing the Electoral Code, supplemented by the Ordinance of 16 April 1993 and the Act of 5 April 2000, which sets forth the principle of freedom of election meetings and demonstrations all over Togolese territory, with the following restrictions: meetings and demonstrations are prohibited on the public highway; they are prohibited between 10 p.m. and 6 a.m.; and they must be notified to the prefect or the mayor at least eight hours in advance, in writing (art. 79 of the new code).

231. On the other hand, the Political Parties Charter of 12 April 1991 refers to these matters only implicitly, in two articles.

232. Under article 16 of the Charter in order to exercise public activities a political party is required to have legal personality. Such personality is acquired by declaring the political party to the Ministry of the Interior. Unquestionably, the freedom to hold meetings and demonstrate peacefully holds first place in a political party's public activities.

233. Again, article 24 of the Charter also relates to a political party's activities constituting of breaches of the peace. In such cases, the Ministry of the Interior may order a cessation; the party may apply to the court for the order to be lifted.

234. In addition to the cessation of activities that degenerate into breaches of the peace, some restrictions are stipulated in articles 180-189 of the Penal Code of 13 August 1980, under which demonstrations and meetings are punishable if they are calculated to disturb the peace or law and order, damage public health or undermine the safety of property and persons.

Article 22

Freedom of association

235. Freedom of association has taken on new life since the advent of democracy in Togo. It is guaranteed by article 30 of the Constitution.

236. Establishing an association is a matter governed by the French Act of 1 July 1901, which was made applicable in Togo under Order No. 265 Cab of 8 April 1946. At the present time there are more than 1,800 associations throughout Togolese territory. They include associations

for the protection of human rights, religious associations, associations for the promotion of democracy, associations for development, for the promotion of education, science, culture and so forth.

237. Associations can be created simply by declaring them to the Ministry of the Interior and Security after depositing their statutes, by-laws, a list of members of the executive board and a list of the founder members. They operate freely even before the acknowledgement is received from the Ministry.

238. More and more NGOs are being established to develop, promote and protect human rights. In most cases their role is to make up for the State's deficiencies in performing its overall task; in that context they help to build up the State and, better still, social and economic democracy.

239. Under article 1 of Decree 92-130/PMRT, NGOs are deemed to be national, international and foreign, non-political and non-profit-making associations established by private initiative and consisting of private non-commercial, physical or legal persons engaged in activities of general interest, solidarity or voluntary cooperation for development.

240. Article 4 of the Decree specifies that the establishment in Togo of any international or foreign association claiming to be an NGO must be duly authorized by the competent Togolese authorities. In addition, an application for establishment in Togo must be addressed to the Minister of the Interior and Security, who will issue his decision in an order in the event of approval, or by mere notification in the event of refusal (art. 5, Decree No. 92-130/PMRT). In the case of international and foreign associations an application for recognition of NGO status, together with the approval of the Minister of the Interior and Security, must be addressed to the Ministry of Foreign Affairs and Cooperation (art. 8, Decree No. 92-130/PMRT).

241. Again, national associations requesting recognition of NGO status must apply to the Ministry of Planning by submitting the approval issued by the Minister of the Interior and Security. The Minister of Planning will decide on the application by signing a programme agreement in the event of acceptance or mere notification in the event of refusal (art. 7, Decree No. 920-130/PMRT).

242. It follows from the foregoing that national NGO status requires acceptance by the Minister of Planning, whereas international or foreign NGO status requires authorization from the Minister for Foreign Affairs and Cooperation. Accordingly, an NGO is to be distinguished from an association because it is subject to a regime of authorization, whereas an association is subject only to a regime of declaration, in the same way as does a political party. The approval issued by the Minister of the Interior and Security is no more than acknowledgement of a declaration by an association. Hence, one could say that in Togo an NGO is a group of a special type because it is subject to a regime of authorization and not to the regime of declaration applicable to associations.

243. Furthermore, since the adoption of the Political Parties Charter political parties can be freely established under Act No. 91-4 of 12 April 1991. To date, more than 62 political parties have been registered, according to information from the Ministry of the Interior and Security. All these political parties have obtained their acknowledgement of declaration without any hindrance. What is more, in their public demonstrations the political parties call on the Ministry of the Interior and Security itself for the support of the forces of law and order for the purposes of escort.

Article 23

The protection of the family

244. In Togo, marriage is possible only between a man and a women aged 20 and 17 respectively. However, age dispensations can be granted by court authorization to those who have not reached the requisite age. This applies to emancipated minors and minors who have obtained authorization from their parents or persons with authority over them.

245. The consent of the spouses is a necessary condition for a valid marriage. Each spouse, even where he or she is a minor, must have personally consented to the marriage (art. 44 of the Individuals and Family Code).

246. Consequently, where the consent of one or other of the two spouses has not been given or has been given under duress, the marriage is declared null and void. Under article 81 of the Individuals and Family Code, the civil registrar is required to make sure that the spouses do consent by receiving from each party, when the marriage is celebrated, a declaration that he and she wish to become husband and wife. In practice, absence of consent by the spouses is rare. The purpose of requiring the mutual consent of the spouses under Togolese law is to proscribe forced marriages.

247. To produce legal effects a marriage must necessarily be conducted by a civil registrar.

Article 24

248. There are a number of statutory provisions on the civil, social and penal protection of children, viz.:

- Social Security Code of 12 November 1973;
- Labour Code of 8 May 1974;
- Ordinance of 6 May 1975 on the reform of education;
- Order of 26 December 1975 establishing a parents' association at each school for the primary, secondary and higher education levels;

- Nationality Code of 7 September 1978;

- Individuals and Family Code of 31 January 1980 and the annex thereto, containing provisions on names and domicile;

- Penal Code of 13 August 1980;

- Code of Criminal Procedure of 2 March 1983; and

- Ordinance of 16 November 1988 on apprenticeship.

249. The statutory provisions protecting children in Togo are so scattered that associations and NGOs concerned with children have proposed to the public authorities that the rights of the child should be set out in consolidated form. To that end an expert committee was established to make a preliminary draft of the Togolese Code on the Rights and Duties of the Child, which consists of four titles, preceded by a preliminary title on the definition of the child and on general principles. Title I deals with the rights and freedoms of the child in general; Title II is on the rights of the child to special protection; Title III concerns duties and obligations; while Title IV is concerned with promoting the rights of the child.

250. It should be noted that the Constitution of 14 October 1992 incorporates within the domestic legal system all the rights of the child contained in the Convention on the Rights of the Child of 20 November 1989, this pursuant to article 50 of the Constitution, which specifies that all rights and duties set out in a human rights treaty ratified by Togo form an integral part of the Basic Act of 14 October 1992.

The age of the child

251. Majority for civil purposes is fixed at 21 years of age by the Family Code of 31 January 1980, which defines someone not of full age as anyone of either sex who has not yet reached age 21 (art. 265, Togolese Family Code). The preliminary draft of the Togolese Code on the Rights and Duties of the Child sets civil majority at 18 years of age, a solution which means that a child is to be regarded as anyone under age 18 (preliminary draft, art. 1).

252. The age at which a child can be held criminally responsible is 13, as fixed by the Code of Criminal Procedure of 2 March 1983; the same Code sets the age of majority for penal purposes at 18. The age at which a child is authorized to work in an enterprise, even as an apprentice, is set at 14 by the Labour Code of 8 May 1974 (art. 114). The age at which a child can invoke article 10, paragraphs 2 and 3, of the International Covenant on Civil and Political Rights must be 13 since under the Code of Criminal Procedure a child below 13 years of age cannot be held criminally responsible.

253. As for measures taken to reduce infant mortality and eliminate malnutrition among children, please refer to the developments on the subject in connection with article 6.

Protection against acts of violence

254. To safeguard children against acts of violence, cruel and inhuman treatment and economic and sexual exploitation, the draft Togolese Code on the Rights and Duties of the Child covers all these aspects in the chapter on the protection of children who are victims of acts of violence committed either by the family (arts. 590-609) or by other persons (arts. 610-634). Mention must also be made of protection against drugs, narcotics and poisonous substances (arts. 635-642), protection against kidnapping for removal to other countries, the sale of and trafficking in children and begging (arts. 643-647) and protection in the event of armed conflict (arts. 649-652).

255. In addition, the technical departments of the Ministry for Social Affairs and the Promotion of Women, and more specifically the Directorate for the Family and Children, in cooperation with the Directorate of Police and Civil Society, having observed cases of trafficking in children involving removal to neighbouring and Central African countries, have launched a large-scale programme to combat this traffic at two levels: first, to expose and break up networks trafficking in children throughout the country and at frontiers; and secondly, to inform parents of the worst forms of exploitation to which such children are subjected in receiving countries to promote awareness within the population of the rights of the child and to assist with the reintegration into society of children once recovered.

The protection of child offenders or children in conflict with the law

256. It is important to specify here the punishment applicable to a child offender who commits a crime. Article 475 of the Code of Criminal Procedure of 2 March 1983 stipulates that in such cases the penalty to which a child offender is liable may not exceed half that applicable to an adult offender, and in no case may it exceed 10 years. Thus a child under 18 years of age who commits a crime may not be sentenced to capital punishment or life imprisonment.

257. As regards the execution of a sentence incurred by a child offender, as was stated earlier in connection with the civil prison in Lomé, the cramped nature of the premises has resulted in serious breaches of the rule of separation of young persons from adults. In that connection the plan for the improvement of living conditions in the prisons in Lomé is highly encouraging and deserves to be extended to all prisons in Togo.

The protection of children against discrimination

258. The protection of children against discrimination is established in two fundamental areas.

259. Firstly, as regards nationality, the Nationality Code of 7 September 1978 gives precedence to the Togolese nationality of the father; it stipulates (art. 3-1) that a child born of a Togolese father is Togolese.

260. This situation, which is based on discriminatory considerations, is clearly incompatible with equality between men and women. One of the most important innovations effected in this field was brought about by the change of the Constitution of 14 October 1992. Article 32,

paragraph 1, of that Constitution places men and women on an equal footing, providing that "children born of a Togolese father or mother shall automatically be granted Togolese nationality". The text provides that an application for a certificate of nationality must be supported by a document certifying the origin of either the father or the mother of the child. Under the provisions of the earlier text of article 3-1 of the Nationality Code of September 1978, only a certificate of the origin of the father was required.

261. The second field is that of the right of inheritance, which is governed by the provisions of articles 391 et seq. of the Family Code of 31 January 1980 (Title IX). In this field the legislative authority has drawn a distinction between, on the one hand, the customary rules governing inheritance, which constitute the ordinary law applicable in that field, and, on the other hand, the provisions governing inheritance in statute law, which are applicable only when the deceased makes a declaration during his lifetime waiving the application of the customary rules governing inheritance.

262. One fundamental feature of the customary rules governing the rights of inheritance of the child is discrimination based on sex and age. The basic customary rule, which derives from the principle of the inalienability and indivisibility of the landed properties of a family, is that girls may not inherit land. This rule implies that each child may claim a right of inheritance against the movable property of the father or the mother but not against immovable property, which is reserved for boys only (although under certain customary rules, for example, those of the Ewe and the Mina tribes, female heirs may inherit a right to cultivate land).

263. More specifically, in rural areas inheritance under customary law is governed by three fundamental principles, namely the inalienability and indivisibility of landed property owned by the family; the taking over of the rights and duties of the deceased by the latter's eldest brother; and the sharing out of the personal property of the deceased exclusively among the latter's children, the privileges deriving from sex and age being applicable. The daughters of the deceased are generally less favoured than the sons, the eldest of whom occasionally receives a larger share than the others.

264. In rural areas land is treated as producer goods shared by all the members of the community. In urban areas the situation is different; there land is a site for a dwelling or a commercial asset and may thus be individually owned or alienated. With this in mind the framers of customary law have developed rules which have substantially changed ancestral customs. The new rules have put an end to discrimination based on sex; they provide that all heirs without distinction of sex shall be on an equal footing for purposes of inheritance, particularly in relation to immovable property in urban areas; however, that rule does not apply to female heirs in relation to rural lands (cf. Court of Appeal of Togo, unpublished ruling dated 3 September 1972 handed down by the Chamber of Annulments). The principle of equality of all children in matters of inheritance without distinction based on sex or social origin is now laid down in the provisions of the statute law governing inheritance: article 413 of the Togolese Family Code reads as follows: "Children or their descendants shall inherit from their father or their mother, grandparents or other ascendants, irrespective of whether they are from different households or born within the marriage".

265. When all the individuals concerned are heirs in the first degree and appear in their own right, each receives an equal share of the estate (art. 413, para. 1). When some or all of them inherit indirectly through a predeceased ancestor (representation), the estate is divided among the family groups concerned (art. 413, para. 2).

266. It should also be mentioned that, in accordance with article 46 of the Ordinance of 7 September 1978 establishing the organization of the judicial system, where the customary law applicable is silent or insufficiently explicit, the provisions of statute law become applicable. One may conclude that, notwithstanding the option of choice of rules governing inheritance provided for in article 391 of the Togolese Family Code, there are incompatibilities between the customary rules governing inheritance and those enshrined in statute law.

Protection of children in the family environment

267. For the protection of children both of whose parents are gainfully employed away from home, informal pre-school institutions known as "promotion centres for small children" (CPPE) have developed empirically.

268. The purpose of these centres is to look after children up to three years of age (in areas in which kindergartens exist) and children up to six years of age in districts where there are none. There are at present some 30 CPPEs; as child-minding institutions they provide considerable relief from the burdens borne in particular by women, who are enabled to concentrate on their occupational activities, and by girls of school age, who are no longer required to look after their brothers and sisters and will have to attend school normally. It is worthy of mention that the CPPEs have had in their care 25,600 children up to six years of age.

269. As regards ill-treatment and neglect of children by their parents, the law provides for both penal and civil sanctions.

270. In the penal sphere, parents guilty of acts of violence against children (deliberate bodily harm, violent or non-violent acts of indecency, material or moral abandonment of the home, failure to feed children) are liable to a fine or imprisonment.

271. Sanctions of this type are ineffective, since they are incompatible with the provisions of the Convention on the Rights of the Child of 20 November 1989 which provide for the right of children to life, survival and development. Imprisoning the parents or sentencing them to pay a fine will inevitably have the effect of depriving the child of its right to food and thus the right of survival. The preliminary draft of the code concerning the rights of the child remedies this by giving preference to the application of measures requiring parents to provide sureties.

272. In the civil sphere neglect of children and acts of violence against them may seriously endanger the health, safety, morals and education of the children affected.

273. The Family Code of 31 January 1980, in its provisions relating to parental authority (arts. 232 et seq.) divides sanctions into two types: on the one hand, partial or total deprival of parental authority; on the other hand, assistance to parents through educational aid.

274. A more general practice is for a child in this situation, after a short period spent in an institution, to be placed with a host family or a guardian and kept under observation; these measures are taken for the protection and education of the child. The child is also kept under observation at school. It should be mentioned that the social services hold discussions with parents in order to help them with the supervision and education of their children.

275. As regards the protection of children in the event of the divorce or separation of the parents, article 142 of the Family Code of 31 January 1980 makes the following distinction: in the event of the divorce or separation of the parents, custody of the children is determined in the light of the age and the best interests of the children. In principle, custody of a child under age seven will be awarded to the mother except where the best interests of the child dictate that it should be given to the father or some other person; a child over age seven is given into the custody of the father or the mother, according to his best interests. The parent who is not given custody of the child retains the right of visiting and staying access.

276. As regards the protection of children who have been abandoned or cut off from their family environment, two hypotheses may be envisaged: one of the parents may be in prison; or neither of the parents can provide for the education of the child. In the former case the child may be placed in an institution pending the release of his mother; but during the period of detention contacts between the child and his mother or father must be maintained. In the latter case the Togolese Family Code provides for full adoption, under which the adoptive parents replace the child's original parents; the status of the child is then similar to that of the legitimate children (article 230 of the Togolese Family Code).

277. Adoption is ordered exclusively to further the best interests of the child. In every case priority must be given to adoption within the country, since international adoption may give rise to trafficking in children.

The right of the child to a name and a nationality

278. Concerning the right of a child to a family or patronymic name, it should be explained that the use of that name dates back to a German ordinance of 1909 which made the declaration of births and deaths compulsory. That text was given limited effect by orders dated 17 November 1921 and 30 September 1926. Order No. 384 of 21 April 1954 extended the scope of the order to the entire country. It must be pointed out that Decree No. 62-89 of 2 July 1962 reorganizing the civil registration system, which is still in force, reaffirmed the principle of compulsory reporting of births, marriages and deaths.

279. This being said, the granting of a family name is regulated by the provisions of articles 2 et seq. of the appendix to the Individuals and Family Code of 31 January 1980. That text provides that the name shall be determined on the basis of descent or marriage or by the civil registrar.

280. Where the family name is determined on the basis of descent, the law establishes three categories of children: children born in wedlock; children born out of wedlock; and children who have been the subject of full adoption (which the same legislative authority has stipulated in preference to simple adoption).

281. A child born in wedlock takes the family name of his father. But if the latter disowns him, the law allows him to take the family name of his mother.

282. A child born out of wedlock may be an ordinary natural child, an adulterine child or a child conceived by incest. In principle the child takes the family name of the parent from whom his descent is established (Family Code, annex, article 3, paragraph 1).

283. One must distinguish between two types of situation here. If descent has been established from both parents simultaneously, or from the father after the mother, the child will take the name of the father (annex to the Togolese Family Code, article 3, paragraph 2); if only descent from the mother is established, a male child will take the family name of the father of his mother (annex to the Code, article 3, paragraph 3).

284. Lastly, a child who has formed the subject of full adoption will in principle take the family name of the adoptive parent (annex to the Code, article 4, paragraph 1). In the event of adoption by both spouses, the child takes the name of the husband (annex to the Code, article 4, paragraph 2). But if the adopting person is a married woman the courts may rule, by an adoption judgement, that the child shall be given the name of the husband of the adopting person, subject to the consent of the husband (annex to the Code, article 4, paragraph 3). After one month has elapsed from the day on which the adoption decision becomes final, the new name of the adopted child will, at the request of the public prosecutor or of a court, be recorded in the margin of the child's birth certificate (article 228 of the Code).

285. As regards the assignment of a family name on grounds of marriage, article 6, paragraph 1, of annex 24 of the Individuals and Family Code states that a married woman keeps her name but acquires the right to use that of her husband throughout the marriage and any period during which she remains a widow. This approach is fully applicable to the marriage of an under age girl, since article 45 of the Togolese Family Code stipulates the right of a child capable of discernment to enter into marriage subject to the permission of his father and mother or, failing them, the person exercising authority over him.

286. The principle of assignment of a family name by the civil registrar is laid down in article 5 of the annex to the Individuals and Family Code of 31 January 1980. That provision states that a child in respect of whom it has proved impossible regularly to establish any descent shall take the name assigned to him by the civil registrar to whom his birth or discovery has been declared.

287. Having discussed the conditions governing the assignment of a family name, we must now turn to the problem of the protection of the name given to the child.

288. This protection is secured by penal sanctions. Thus the Penal Code of 13 August 1980 states that failure to declare the birth of a child to a civil registrar within 30 days shall be punishable by a fine of 20,000-30,000 francs (article 76 of the Togolese Penal Code).

289. In contrast, an inaccurate declaration of birth knowingly made to the civil registrar is punishable by one to five years' imprisonment (article 76 of the Penal Code). A civil registrar or civil registry official who knowingly records inaccurate declarations or deliberately alters, falsifies or destroys a register or a civil registry deed or document is punishable by 5 to 10 years' imprisonment (article 77 of the Penal Code).

290. The basic text regulating the right of a child to a nationality is the Togolese Nationality Code of 7 September 1978. That code deals separately with the award of Togolese nationality as a nationality of origin and the acquisition of Togolese nationality. The same approach has been adopted in the preliminary draft of the Code on the Rights and Duties of the Child (arts. 14 et seq.).

291. A further distinction must be made, with regard to the award of Togolese nationality as the nationality of origin, between award on grounds of descent and award on grounds of birth in Togo. The first category having been dealt with in earlier sections, only the latter category will be considered here.

292. The award of Togolese nationality on grounds of birth in the territory of Togo gives rise to three sets of hypotheses.

293. First of all, a child born in Togo of foreign parents who were themselves born in Togo is Togolese. The basis of this rule is the presumption of integration of the child into the national community. In accordance with jus solis the award of Togolese nationality to a child born in Togo is greatly facilitated where his two parents were not born outside the country. In both cases the requirement of possession of the condition of Togolese must be borne in mind.

294. Secondly, Togolese nationality is awarded to any person who cannot claim any other nationality of origin on the sole ground of having been born in Togolese territory (article 2 of the Togolese Nationality Code). This rule permits the granting of Togolese nationality to stateless children on the sole ground of their having been born in Togo. It also permits the granting of Togolese nationality to the children of foreign parents whose nationality cannot be passed on to them because their national legislation does not provide for such transmission.

295. Finally, a child born on Togolese territory and found before reaching age five many claim Togolese nationality by virtue of jus solis. This appears to be implied by Act No. 89-16 of 24 October 1989, which provides that "a child of unknown descent and under the age of five years discovered on Togolese territory shall be deemed to have been born in Togo and declared as such to the civil registrar". The scope of this provision must be extended to children born of unknown parents, since every State must at all costs avoid cases of statelessness implying that no country is willing to recognize a child as its national.

296. As regards the acquisition of Togolese nationality, a child whose father has become Togolese automatically acquires Togolese nationality (article 20 of the Nationality Code).

297. Togolese nationality may also be acquired through marriage. The preliminary draft of the Code on the Rights and Duties of the Child provides that a foreign girl under age 18 who marries a Togolese is entitled to acquire Togolese nationality without the permission of her parents. She is also entitled to decline Togolese nationality by a declaration made before any celebration of marriage (art. 20).

298. In addition, a Togolese girl under age 18 who marries a foreigner retains Togolese nationality unless she expressly declares before the celebration of the marriage that she repudiates it; that declaration may also be made without permission. However, it is only valid if she acquires or can acquire the nationality of her husband in accordance with the latter's national law (art. 21).

Article 25

The right to take part in the conduct of public affairs

299. The conduct of public affairs is a duty incumbent on all citizens, and they must participate in public affairs directly or indirectly. That right is affirmed in the Constitution (articles 2, 3 and 4 (para. 1) of the Constitution).

300. But the events of daily life do not indicate with any degree of certainty that all citizens actually do take part in the conduct of public affairs.

301. Admittedly, all citizens are entitled to participate in the conduct of public affairs either directly or through the intermediary of elected representatives.

302. Suffrage is universal, direct, equal and secret (articles 5 and 51 of the Constitution).

303. All citizens have equal access to public employment.

304. However, association of the population and of civil society in the determination of all political, economic and social orientations is particularly desirable. Every Togolese citizen should at all times feel concerned by the nation's life.

Access to the public service

305. The law establishes equality of access for all citizens of either sex to public and private employment subject to conditions of physical ability and special requirements (articles 2 and 37 of the Constitution).

306. To ensure compliance with the principle of equal access to the public services for all citizens, the accepted principle is that of recourse to direct or occupational competitions.

307. From time to time direct competitions for recruitment of young public officials, and occupational competitions for the promotion of serving officials, are organized.

308. Special competitions are held for recruitment in each department, and joint competitions are organized for recruitment in occupational groups spread across several ministerial departments.

309. Notwithstanding the economic crisis and rigorous structural adjustment measures, the Government has been able to organize two recruitment competitions for the departments of health and education respectively.

310. In the year 1998-1999, 1,000 teachers were recruited for training at the Higher Normal School in Atakpamé.

311. In addition, the situations of 8,000 teachers previously working under contracts have been regularized.

312. Within the framework of the special relationship between Togo and Nigeria, 2,000 Togolese teachers have been recruited to teach French in Nigeria.

313. In the health sector, in 1998 the Government recruited 1,005 health officials at all levels within the public service.

314. Written or preliminary examinations are conducted under the control of a supervisory board. All necessary measures are taken to ensure the reliability and secrecy of both written and oral examinations, the marking of which takes place under the supervision of a board of examiners appointed by decision of the Minister of the Public Service.

315. However, in exceptional cases some individuals possessing certain rare diplomas, titles or occupational qualifications or skills may be recruited on the basis of their qualifications to meet the needs of the public services.

316. Togo is one of the countries in which there is no wage or salary discrimination based on sex.

The right of suffrage

317. The conditions governing the right to vote and to be elected are laid down in legislative texts.

318. Elections are regulated by Act No. 92-003/PR of 8 July 1992 establishing an Electoral Code as amended by Ordinance No. 93-02/PR of 16 April 1993 and Act No. 97-15 of 15 September 1997. The principles laid down in the new text are as follows: the Government, and more specifically the Ministry of the Interior, prepares and organizes elections in due legal form (arts. 15 et seq. and 45 et seq.) with the participation of representatives of the political parties or groups of parties, under the control and supervision of the National Electoral Commission (arts. 72 et seq.) and under the judicial control of the Supreme Court (arts. 146 and 188) and the Court of Appeal (arts. 213 and 241).

319. The National Electoral Commission was established for a period equivalent to the period of transition; but after the democratic transition had been completed the manner of its operation came under challenge. This explains the recent adoption by the Council of Ministers of a draft Act to change the composition of the Commission. As in the past, it is to consist of nine members, and it will be made up as follows: The chairman is to be a judge appointed by the Council of Ministers (whereas previously the President of the Court of Appeal was ex officio chairman); four persons are to be nominated by the majority (the political party or group of parties in power) and four by the opposition (parliamentary and extra-parliamentary).

320. This is a consensual formula reflecting the desire of the political parties to arrive at solutions based on dialogue and consensus.

321. However, the opposition questioned the impartiality of the members of the National Electoral Commission and proposed that the chairman should be a person chosen by agreement between the majority and the opposition. The Government has preferred to revert to the earlier practice of appointing the President of the Court of Appeal as ex officio chairman.

322. As part of the implementation of the recommendations which emerged from the dialogue among the different groups in Togo, a new electoral code (Act No. 2000-007 of 5 April 2000) was adopted.

323. Under the terms of this Act the Independent National Electoral Commission (CENI) is made up of 10 members nominated by the majority and 10 nominated by the opposition. They are all appointed by the National Assembly on the proposal of the groups supporting the President and of the opposition.

(a) The right to vote

324. All Togolese citizens of either sex aged 18 or over, in full possession of their civic and political rights, registered on the electoral rolls and suffering none of the incapacities specified by law have the right to vote (article 5 of the Constitution, articles 2 to 12 of the Electoral Code). To be a voter a citizen must have reached the requisite age of majority (18 years) and register on the electoral roll of his domicile or residence.

325. However, the following are debarred from participation in the electoral process:

- Persons convicted of crimes;
- Persons sentenced to over six months' imprisonment (suspended or non-suspended) and, according to the case, to a fine for theft, fraud, malversation, improper use of public funds, forgery and use of forgeries, corruption and influence peddling or acts of indecency;
- Persons in a state of contumacy;
- Incapable adults;

- Undischarged bankrupts;

- Persons deprived of their civic and political rights for a period fixed by a decision of the judicial authority in application of the legislation in force.

(b) The right to be elected

326. In Togo, with the exceptions of members of the armed forces and certain serving officials, all citizens of either sex who meet certain conditions laid down by law may stand in the different elections.

Presidential elections

327. A person wishing to be a candidate in presidential elections must:

- Be a Togolese national by birth;

- Be aged 45 or over;

- Be in possession of all his civic and political rights;

- Produce a medical certificate certifying his physical and mental fitness signed by three sworn physicians appointed by the Supreme Court;

- Lodge a deposit, the amount of which is fixed by decree, with the public treasury;

- Be nominated by one or more political parties or a list bearing the signatures of at least 2,000 registered voters supporting an independent candidature.

Parliamentary elections

328. The Electoral Code lays down the conditions to be fulfilled by candidates for parliamentary elections. Under the terms of articles 157 and 158 of the code, any citizen who is a voter may stand for election if he fulfils the following conditions:

- To be aged 25 or over;

- To be a Togolese national by birth;

- To have resided in the Togolese Republic for at least six months;

- To be able to read and write in French.

However, the following are debarred from standing in legislative elections:

- Persons deprived of their civic and political rights by decision of a court of law;

- Persons under legal tutelage;

- General secretaries and directors of ministers' private offices and directors-general of public utility services;

- Prefects, subprefects and general secretaries of prefectures;

- Labour inspectors; the pay-master general and heads of treasury and taxation departments and accountants and employees engaged in the assessment, collection and recovery of revenue or the payment of items of public expenditure;

- Directors of customs and heads of customs offices;

- Gendarmes and non-commissioned and commissioned officers in the gendarmerie; police constables, police officers and police commissioners;

- Officers in the armed forces;

- Judges in courts and tribunals.

Election procedure

329. Since the start of the democratic process Togo has organized pluralist presidential and parliamentary elections, and in particular the Presidential elections held in August 1993 and June 1998, the parliamentary elections held in February 1994 and the by-elections held in June 1996. All these elections were conducted transparently, and there was an extremely high level of participation by the population of voting age.

Comments on the first presidential elections, held in 1993

330. Presidential and parliamentary elections were held in Togo during the transitional period following the OUAGA III agreement signed on 11 July 1993 between the groups supporting the President and the Government, on the one hand, and the Collectif de l'Opposition Démocratique (COD II) on the other.

331. This agreement had amended the Electoral Code, particularly with regard to the composition of the National Electoral Commission, an independent body responsible for organizing and supervising elections, and of the other commissions established for that purpose. The object of these changes was to enable the two parties to be represented in the bodies responsible for the organization of those elections in order to ensure that they were free and transparent.

332. During those elections the Rassemblement du Peuple Togolais (RPT) put forward its candidate, the outgoing President of the Republic, General Gnassingbé Eyadema; the Collectif de l'Opposition Démocratique (COD) nominated as its candidate the president of the Union

Togolaise pour la Démocratie (UTD), Mr. Edem Kodjo. Two other candidates, Adani Ife of the Alliance Togolaise pour la Démocratie (ATD) and Jacques Amouzou, an independent, also stood for election to the presidency.

333. According to the provisions of the Electoral Code, a candidate may belong to a political party or a coalition of parties or stand as an independent; he is merely required to lodge the deposit and to be in possession of his civil and political rights.

334. The electoral campaign began with the participation of all the candidates; it was scheduled to last two weeks. But after starting the campaign the COD decided to desist from campaigning, withdrew its candidate from the election and called on the population to boycott the election. The campaign continued with the three remaining candidates, and the voting on 25 August 1993 gave victory to the outgoing President and candidate of the RPT, General Gnassingbé Eyadema.

335. All the candidates were able to conduct campaigns throughout the country, since the OUAGA III agreement had reaffirmed the non-political nature of the Togolese armed and public security forces and their neutrality vis-à-vis political parties or movements. In addition, the Government had been requested to ensure the safety of all candidates in the election as well as their property and the head offices of their parties.

336. The voters were free to make their choices in a protected booth in which a jute sack was hanging to put unused voting slips in. The electoral lists were posted up, thus giving anybody of an age to vote to register or to have himself struck off the lists up to 48 hours before voting took place.

337. All in all, the OUAGA III agreement and the Electoral Code had established the safeguards necessary for freedom of voting during that election. Even so, the Government was unable to prevent isolated individuals from committing disruptive acts.

338. At the end of the voting the RPT candidate had won on the first ballot, obtaining 96.42 per cent of the votes cast as against 1.90 per cent for the independent candidate and 1.67 per cent for the candidate of the ATD; the opposition candidates had boycotted the elections.

Comments on the presidential elections of 21 June 1998

339. To ensure transparency in the most recent presidential and parliamentary elections, supervisory bodies, made up of supporters of the President and of the democratic opposition in equal numbers and with adequate material facilities, were established. The bodies in question are:

- The High Audio-visual and Communications authority;
- The National Electoral Commission;

- The local electoral commissions;

- The Administrative Commission.

340. Against that background the National Assembly amended the Electoral Code on 9 September 1997. The amendments made related to the National Electoral Commission (CEN) and the transfer of jurisdiction for disputes concerning presidential and legislative elections to the Constitutional Court.

341. The amendments concerning the CEN related specifically to its composition, its chairman and its powers. Its composition was reduced from nine to eight members, four from the opposition and four from the majority, all of them to be elected by the National Assembly.

342. The President of the Court of Appeal became ex-officio chairman of the CEN.

343. As regards powers, it became the responsibility of the CEN to ensure the supervision and control of the electoral process; the actual organization of the elections was transferred to the administration, and more specifically the Ministry of the Interior. To ensure that the CEN was not placed in a position of being both judge and party, jurisdiction over electoral disputes was assigned to the Constitutional Court.

344. To give equal chances to the different candidates engaged in the electoral competition, the High Audio-visual and Communications Authority took steps to ensure an equitable allocation of broadcasting time on the State media for each candidate.

345. Besides these supervisory bodies, praiseworthy efforts were made in the material organization of voting; voters' cards were computerized and made forgery-proof; indelible ink was placed on the index finger of each voter to prevent individuals from voting more than once; and polling booths contained a special receptacle (jute sack) for the deposit of unused voting slips in order to safeguard the voter from the exercise of influence by his party or some other pressure group.

346. In addition, the proceedings of these first pluralist elections were supervised by 125 observers. Six candidates took part:

- Yaovi AGBOYIBOR, of the Comité d'Action pour le Renouveau (CAR);

- Jacques AMOUZOU, of the l'Union des Libéraux indépendants (ULI);

- Zarifou AYEVA, of the Parti Démocratique pour le Renouveau (PDR);

- Eyadéma GNASSINGBE, of the Rassemblement du Peuple Togolais (RPT);

- Léopold GNININVI, of the la Convention Démocratique des Peuples Africains (CDPA);

- Gilchrist OLYMPIO, de l'Union des Forces du Changement (UFC).

347. The election campaign began two weeks before polling day: it took place in conditions of absolute safety for everyone throughout the country. There were no arrests and no riots.

348. Access of the candidates to the public media and coverage of their meetings by the media was ensured; the High Audio-visual and Communications Authority scrupulously monitored compliance with the principle of equality of the candidates vis-à-vis the public media.

349. The level of participation of the population in the voting was extremely high; the people exercised their voting rights in an atmosphere of calm and mutual respect.

350. The observers who travelled throughout the country and its 4,000 polling stations unanimously recognized that the elections of 21 June 1998 "were conducted in a satisfactory manner, notwithstanding some difficulties observed in the distribution of voters' cards, namely in the commune of Lomé".

351. Two heads of observer delegations, Mr. Bruno Mathieu, President of the Observatoire international de la Démocratie, and Mr. Jonathan Braun, President of the Center of Contemporary Diplomacy, respectively made the following statements: "... we have witnessed a decent and proper electoral process which can determine the outcome for each of the candidates standing in this first round of the presidential elections ..." and "we were impressed by the peaceful and serene nature of the voting and by the enthusiasm of the people for voting. We were also highly impressed by the freedom of access given to international observers in all the polling stations" (see Togo Presse, 23 June 1998, pages 1 and 3).

352. The same impression of satisfaction was seen among the observers from the OAU francophone group (see Togo Presse, 23 June, page 3, and 24 June, pages 1, 3 and 4).

353. Only the observers from Eris, a subcontractor selected by the European Union, vehemently and consistently protested against the quality of the election proceedings.

354. However, 48 hours after the polling, four members of the National Electoral Commission and its lady chairman resigned from the Commission because they had received threats of all kinds, including threats of death.

355. To avoid a halt in the proceedings the Ministry of the Interior and Security, which had responsibility for the material and technical organization of the elections, undertook the counting of the votes and transmitted the provisional results of the voting to the Constitutional Court.

356. At that point the opposition lodged two appeals with the Constitutional Court, one alleging illegality and the other electoral fraud. Both appeals were rejected by the Constitutional Court in two decisions handed down respectively on 2 and 8 July 1998.

357. On 10 July 1998 the Constitutional Court issued the final results and proclaimed Gnassingbé Eyadema, the candidate of the RPT, elected on the first round of balloting with a total of 52.13 per cent of the votes validly cast. The other candidates obtained scores as follows:

Gilchrist Olympio	34.10 per cent
Yaovi Abgoyibor	9.54 per cent
Zarifou Ayeva	3.02 per cent
Messan Gninginvi	0.80 per cent
Jacques Amouzou	0.35 per cent.

The parliamentary elections

358. Since electoral proceedings were first introduced, Togo has had to organize two parliamentary elections, in 1994 and 1999 respectively.

Comments on the parliamentary elections of February 1994

359. The parliamentary elections comprised two rounds of balloting and took place on 6 and 20 February 1994. Some sections of the opposition participated. The conditions governing the organization of the elections and the guarantees for the safety of the candidates were laid down in the electoral code and the OUAGA III (Burkina Faso) agreement.

360. To ensure transparency of the proceedings, the different bodies responsible for organizing these elections (the National Electoral Commission, local electoral commissions, administrative commissions and polling station staff) were made up of government and opposition representatives in equal numbers.

361. Notwithstanding the safety precautions taken, incidents occurred which led to the annulment by the Supreme Court of the voting in three electoral constituencies.

362. Generally speaking, the parliamentary elections took place in an atmosphere of calm and transparency. At the end of the second ballot the opposition, represented by the CAR and UDD parties, had won the election with 40 seats against 37 for the RPT-UJD coalition and 1 for the CFN.

The by-elections of August 1996

363. The organization of by-elections on 4 and 18 August 1996 in the three constituencies in which the voting had been cancelled, namely the second constituency of Wawa, the first constituency of Oti and the second constituency of Haho, yielded the following results: the RPT candidates won on the first ballot in Wawa and Haho and on the second ballot in the Oti constituency.

364. Following these by-elections the Rassemblement du Peuple Togolais (RPT) held 42 seats as against 32 by the Comité d'Action pour le Renouveau (CAR), 5 by the Union Togolaise pour la Démocratie (UTD), and 1 by the Convention des Forces Nouvelles (CFN); there was one independent member. Thus in August 1996 the majority in the National Assembly was overturned to the benefit of the RPT.

365. The President of the Republic accepted the resignation of the opposition prime minister and appointed a new prime minister from the new majority party.

366. All things considered, the first two elections held during the transition period prove that Togo has genuinely committed itself to the path of democracy. Notwithstanding the many problems it experienced during the transitional period, Togo succeeded in organizing the two principal elections which enabled it to join the group of countries with Governments which are the outcome of pluralist elections.

Comments on the parliamentary elections of March 1999

367. The parliamentary elections of March 1999 were to establish the second legislature of the Fourth Republic.

368. From the regulatory standpoint, these elections took place on the basis of the Constitution of 14 October 1992, Act No. 92/003/PM of 8 July 1992 establishing an electoral code as amended by Ordinance No. 93/02/PR of 16 April 1993 and Acts Nos. 97/15/PR of 15 September 1997 and 99/001/PR of 12 February 1999.

369. The material and technical organization of these elections began with the revision of the electoral rolls, including the handling of complaints concerning registration and/or deregistration and appeals to the courts in accordance with articles 13 and 29 of the Electoral Code, article 13 of which provides that "electoral rolls shall be permanent. They shall be revised annually under the control of the National Electoral Commission ... however, a special revision may be decided on by decree before each general election".

370. These elections were originally scheduled to take place on 7 March 1999, but at the request of the opposition parties they were deferred several times until the latest date permitted by the Constitution, namely 21 March 1999.

371. It will be recalled that in an opinion dated 24 December 1998 the Constitutional Court stated that the terms of office of the members of the first legislature expired on 22 March 1999 and that elections must take place between 20 February and 21 March 1999.

372. With a view to permitting extensive participation by politicians of all shades of opinion in the elections to the second legislature the Government accepted successive postponements and proposed amendments to articles 175 and 179 of the Electoral Code changing the final date for the deposit of candidatures for the parliamentary elections to 20 days before polling day, as against 30 days under the previous provisions.

373. There were 107 candidates (30 of them independent candidates) for the 81 seats. The candidates other than the independents represented the following parties:

- Convention des Forces Nouvelles (CFN)
- Parti Ecologiste Panafricain (PEP)
- Rassemblement du Peuple Togolais (RPT).

374. Notwithstanding the measures taken by the Government to enable all to participate in the parliamentary elections of 21 March, the opposition parties did not put up any candidates.

375. Voting took place in a climate of transparency and safety, and all the candidates stood on an equal footing.

376. The candidates had equitable access to the State media. The allocation of broadcasting time among the candidates on the public media was governed by regulations issued by the High Audio-visual and Communications Authority, an independent constitutional body safeguarding the freedom of the press.

377. The political parties which had put forward candidates in at least two-thirds of the constituencies were allocated:

- 15 minutes on each of the two radio channels;
- 10 minutes on the television;
- A full page in Togo Presse.

Parties which had put forward candidates in at least one-third of the constituencies were allocated:

- 10 minutes on each of the two radio channels;
- 8 minutes on the television;
- Half a page in Togo Presse.

Parties which had submitted candidates in less than one-third of the constituencies were allocated:

- 8 minutes on each of the two radio channels;
- 6 minutes on the television;
- One-quarter of a page in Togo Presse.

Independent candidates were allocated:

- 5 minutes on each of the two radio channels;
- 4 minutes on the television;
- One-eighth of a page in Togo Presse.

378. The polling on 21 March and the campaign preceding it took place in an atmosphere of calm and transparency, and there were no incidents. The safety of the candidates and the population were ensured by the police task forces

379. On the day following the voting Mr. Jean-Paul Benoit, of the Observatoir international pour la Démocratic stated that: "yesterday's (21 March 1999) voting took place in accordance with constitutional rules and the legislation in force; it took place in an extremely calm atmosphere; there were no incidents and no pressures; there was total freedom of voting and of access to the polling stations" (see Togo Presse, 22 March 1999, page 3).

380. Generally speaking, voting took place in conditions of calm and security.

381. However, some difficulties of a material nature were observed in some polling stations which opened late. To remedy that situation extra time was allowed to permit all voters to vote.

382. The Constitutional Court, ruling on the provisional results communicated to it by the National Electoral Commission, approved 75 results and annulled two others (the results in the third constituency in Kloto and the first constituency of Dankpen). On the first ballot, 77 seats were won by the Rassemblement du Peuple Togolais (RPT) and two seats by two of the 13 independent candidates.

Article 27

Guarantees of the rights of minorities

383. Ethnic and religious minorities have the right to practise their religions, to give open expression to their cultural lives and to use their own languages. In Togo the official language is French.

384. These rights derive from the freedom of religion and association recognized in the Togolese Constitution.

385. There are some 36 ethnic groups in Togo; the largest are the Ewé, the Kabyè and the Ouatchi. Although these ethnic groups have specific features, Togo has no problems of minorities or dominant groups. We are well aware that the basis for the existence of a dominant group and of a minority group consists of discriminatory practices raised to the rank of principles. In Togo there is no ethnic group in a situation of domination or dependence. All

Togolese citizens have an equal right of access to the public service, to education, to ownership of landed property, to health care, etc. Togo has never officially received any special demands from groups claiming to be minority groups debarred from the enjoyment of their rights.

386. The problem facing the country is that of making the effort to develop decentralization further, to harmonize the levels of development of the different regions; and thus to enable all the ethnic groups scattered throughout the country to enjoy the fruits of development

Conclusion

387. Human rights occupy a prominent place in the legal, politicial and institutional systems of Togo. The authors of the Togolese Constitution included in it a considerable number of articles on questions relating to human rights, wishing thereby to demonstrate the desire and determination of the Togolese people to enjoy all the rights enshrined in that fundamental Act.

388. It is thus clear from the report that the provisions of the Covenant form an integral part of the domestic order.

389. A colossal effort to promote human rights has been undertaken to consolidate the basis of the burgeoning democracy in the country and to promote the construction of a State governed by the rule of law.

390. The commitment of the Head of State and of the Government to ensure effective guarantees of the rights of the citizens is unequivocal. Thanks to their determination and the steps they have taken in that field, the human rights situation has improved considerably.

391. Togo intends to continue along this path and wishes to derive greater benefit from the cooperation begun with the United Nations institutions, including the Human Rights Committee.

392. This is the report of the Togolese Government submitted in compliance with article 40 of the International Covenant on Civil and Political Rights.

Drafting Committee for the third report on the International Covenant on Civil and Political Rights

Family name	Given names	Department
1. PABOZI	N'DO	MPDED
2. ADOKI	Toï	MPDED
3. KPAYEDO	Kokou	MAEC
4. ALOU	Bayabako	MPD
5. D'ALMEIDA	Dossè	MIS
6. GNOSSA	Kossi	MENR
7. LAISON	Amala	MFPTE
8. TCHAGNAO	Mama Raouf	MASSPF
9. WOTTOR	Yao	MS
10. GBODUI	Suéto	MCJS
11. NOUDONOU	Koudjo	MCFC
12. GATOWONOU	Kouami	MDUL
13. DJERI-ALASSANE	Alassani	MEPF
14. AGBEDANOU	Clément	MEPT
15. DJOBO	Koum-Miguiba	CNDH

Resource persons

1. Mr. GNONDOLI Komi	President of the CNDH
2. Ms POLO Nakpa	Director-General of Human Rights
3. Mr. AGBETOMEY Kokouvi	Secretary-General of the Ministry of Justice
4. Ms EDORH	Counsellor to the Supreme Court
5. Mr. M'BEOU Nayo	Cabinet attaché, Ministry of Foreign Affairs and Cooperation
6. Mr. WELLA Essoh	Chief of Political Affairs, Agreements and Treaties Division in the Ministry of Foreign Affairs and Cooperation.